

S.B.Civil Second Appeal No.470/2005.

Kraya Vikrya Sahakari Samiti.

vs.

Manohar Singh.

Date : 9.4.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. H Purohit, for the appellant.

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Heard learned counsel for the appellant.

The plaintiff/appellant filed suit for possession against the defendant/respondent under the provisions of Transfer of Property Act (for short 'the TP Act') after serving notice under Section 106 of the TP Act. The trial court decreed the suit but the first appellate court held that the notice was invalid and further held that the suit was not filed by the authorised person and, therefore, dismissed the suit of the plaintiff.

Learned counsel for the appellant submitted that though a lease deed was executed between the plaintiff and defendant but the resolution to grant lease was set aside by the Dy. Registrar, Cooperative Societies and, therefore, the respondent cannot rely upon the condition of the lease deed.

I considered the submissions of learned counsel for the appellant and perused the reasons given by the two courts below.

It appears from the plaint itself that the plaintiff's own case in the plaint itself was that the tenant was entitled to three months' notice and that notice was given by the plaintiff to the tenant/respondent and, therefore, the plaintiff has terminated the tenancy in accordance with the provisions of section 106 of the TP Act, therefore, the contentions raised by learned counsel for the appellant are not coming out from the case set up by the appellant itself because the appellant itself relied upon the condition no.10 of the lease deed providing three months' time to the tenant before he can be asked to vacate the suit premises.

In view of the above, I do not find any substantial question of law involved in this appeal. Consequently, this second appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya